

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 23-0857.01 Christopher McMichael x4775

SENATE BILL 23-177

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HOUSE
3rd Reading Unamended
April 24, 2023

HOUSE
Amended 2nd Reading
April 21, 2023

A BILL FOR AN ACT

101 **CONCERNING THE FUNDING OF COLORADO WATER CONSERVATION**
102 **BOARD PROJECTS, AND, IN CONNECTION THEREWITH, MAKING**
103 **AN APPROPRIATION.**

SENATE
3rd Reading Unamended
April 10, 2023

SENATE
Amended 2nd Reading
April 6, 2023

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill appropriates the following amounts for the 2023-24 state fiscal year from the Colorado water conservation board (CWCB) construction fund to the CWCB or the division of water resources in the department of natural resources for the following projects:

- Continuation of the satellite monitoring system, \$380,000

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

- (section 1 of the bill);
- Continuation of the floodplain map modernization program, \$500,000 (section 2);
- Continuation of the weather modification permitting program, \$500,000 (section 3);
- Continuation of the watershed restoration program, \$500,000 (section 6);
- Continuation of the Colorado Mesonet project, \$150,000 (section 7);
- Continuation of the weather forecasting partnership project, \$1,000,000 (section 8);
- Support for the division of water resources mobile field data collection application project, \$800,000 (section 9);
- Continuation of the reservoir enlargement assessment project, \$1,000,000 (section 11);
- Support for the central Colorado water conservancy district augmentation efficiency project, \$3,000,000 (section 15); and
- Support for the state water plan action advancement project, \$2,000,000 (section 16).

The bill directs the state treasurer to transfer the following amounts on July 1, 2023, from the severance tax perpetual base fund to the CWCB construction fund, and appropriates those amounts from the CWCB construction fund to the CWCB for the following projects:

- Continuation of the Platte river recovery implementation program, \$19,000,000 (section 12);
- Support for the upper Colorado river endangered fish recovery program and the San Juan river basin recovery implementation program, \$15,000,000 (section 13); and
- Additional and continued support for the Frying Pan - Arkansas project, \$20,000,000 (section 14).

The bill directs the state treasurer to transfer the following amounts from the CWCB construction fund on July 1, 2023:

- \$2,000,000 to restore the fish and wildlife resources fund (section 4);
- Up to \$2,000,000 to the CWCB litigation fund (section 5); and
- \$2,000,000 to the water plan implementation cash fund for continuation of the water plan implementation grant program (section 10).

Section 17 appropriates \$10,600,000 of sports betting revenues from the water plan implementation cash fund and \$2,000,000 from the CWCB construction fund to the CWCB to fund grants that will help implement the state water plan.

Section 18 appropriates \$8,000,000 from the wildlife cash fund to

the division of parks and wildlife to purchase up to 924 acre-feet of orphan shares from the CWCB as part of the Chatfield reservoir reallocation project.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Continuation of the satellite monitoring system**
3 **- operation and maintenance - appropriation.** (1) For the 2023-24
4 state fiscal year, \$380,000 is appropriated to the department of natural
5 resources for use by the division of water resources. This appropriation
6 is from the Colorado water conservation board construction fund created
7 in section 37-60-121, C.R.S. To implement this section, the division of
8 water resources may use this appropriation to install, maintain, and
9 operate satellite monitored stream gauges and lysimeters for water rights
10 administration and data collection pursuant to section 37-80-102 (10),
11 C.R.S.

12 (2) The money appropriated in subsection (1) of this section
13 remains available for the designated purposes until it is fully expended.

14 **SECTION 2. Continuation of the Colorado floodplain map**
15 **modernization program - appropriation.** (1) For the 2023-24 state
16 fiscal year, \$500,000 is appropriated to the department of natural
17 resources for use by the Colorado water conservation board. This
18 appropriation is from the Colorado water conservation board construction
19 fund created in section 37-60-121, C.R.S. To implement this section, the
20 Colorado water conservation board may use this appropriation to continue
21 to assist with the preparation of revised and improved floodplain studies
22 and maps for communities throughout Colorado and participate in
23 federally sponsored floodplain map modernization activities.

24 (2) The money appropriated in subsection (1) of this section

1 remains available for the designated purposes until it is fully expended.

2 **SECTION 3. Continuation of the weather modification**
3 **permitting program - appropriation.** (1) For the 2023-24 state fiscal
4 year, \$500,000 is appropriated to the department of natural resources for
5 use by the Colorado water conservation board. This appropriation is from
6 the Colorado water conservation board construction fund created in
7 section 37-60-121, C.R.S. To implement this section, the Colorado water
8 conservation board may use this appropriation to assist water
9 conservation and conservancy districts with the development of cloud
10 seeding programs to provide benefits to recreation, streams, and
11 reservoirs through snowpack enhancement.

12 (2) The money appropriated in subsection (1) of this section
13 remains available for the designated purposes until it is fully expended.

14 **SECTION 4. Restoration of fish and wildlife resources fund**
15 **balance - transfer.** On July 1, 2023, the state treasurer shall transfer
16 \$2,000,000 from the unreserved cash in the Colorado water conservation
17 board construction fund created in section 37-60-121, C.R.S., to the fish
18 and wildlife resources fund created in section 37-60-121 (6), C.R.S., to
19 continue grant-making to assist with the mitigation of fish and wildlife
20 resources affected by the construction, operation, or maintenance of water
21 diversion, delivery, or storage facilities.

22 **SECTION 5. Restoration of litigation fund cash balance -**
23 **transfer.** On July 1, 2023, the state treasurer shall transfer \$2,000,000, or
24 so much thereof as may be necessary to restore the balance of the
25 litigation fund to \$2,000,000, from the unreserved cash in the Colorado
26 water conservation board construction fund created in section 37-60-121,
27 C.R.S., to the litigation fund created in section 37-60-121 (2.5), C.R.S.,

1 to assist in addressing legal issues associated with compact compliance
2 or any other litigation activities as specified under section 37-60-121,
3 C.R.S.

4 **SECTION 6. Continuation of the watershed restoration**
5 **program - appropriation.** (1) For the 2023-24 state fiscal year,
6 \$500,000 is appropriated to the department of natural resources for use
7 by the Colorado water conservation board. This appropriation is from the
8 Colorado water conservation board construction fund created in section
9 37-60-121, C.R.S. To implement this section, the Colorado water
10 conservation board may use this appropriation to provide planning,
11 engineering, and implementation measures to address technical needs for
12 watershed restoration and flood mitigation projects throughout the state;
13 aquatic habitat protection; flexible operations for multiple uses;
14 restoration work; quantification of environmental flow needs; and
15 monitoring efforts to support healthy stream and watershed goals outlined
16 in the state water plan.

17 (2) The money appropriated in subsection (1) of this section
18 remains available for the designated purposes until it is fully expended.

19 **SECTION 7. Continuation of the Colorado Mesonet project**
20 **- appropriation.** (1) For the 2023-24 state fiscal year, \$150,000 is
21 appropriated to the department of natural resources for use by the
22 Colorado water conservation board. This appropriation is from the
23 Colorado water conservation board construction fund created in section
24 37-60-121, C.R.S. To implement this section, the Colorado water
25 conservation board may use this appropriation to support the Colorado
26 Mesonet, including for the following activities: Operation, maintenance,
27 travel, communications, and database and website management for

1 temperature and precipitation stations.

2 (2) The money appropriated in subsection (1) of this section
3 remains available for the designated purposes until it is fully expended.

4 **SECTION 8. Continuation of the water forecasting**
5 **partnership project - appropriation.** (1) For the 2023-24 state fiscal
6 year, \$1,000,000 is appropriated to the department of natural resources
7 for use by the Colorado water conservation board. This appropriation is
8 from the Colorado water conservation board construction fund created in
9 section 37-60-121, C.R.S. To implement this section, the Colorado water
10 conservation board may use this appropriation to support the development
11 of new ground and aerial remote sensing data, to develop hydrologic
12 modeling practices, to provide reliable volumetric water supply
13 forecasting, and to provide better characterization of snowpack.

14 (2) The money appropriated in subsection (1) of this section
15 remains available for the designated purposes until it is fully expended.

16 **SECTION 9. Division of water resources mobile field data**
17 **collection application project - appropriation.** (1) For the 2023-24
18 state fiscal year, \$800,000 is appropriated to the department of natural
19 resources for use by the division of water resources. This appropriation
20 is from the Colorado water conservation board construction fund created
21 in section 37-60-121, C.R.S. To implement this section, the division of
22 water resources may use this appropriation to develop a mobile
23 application for phone operating systems that will allow division
24 employees to perform work more efficiently and provide updated
25 information in real time.

26 (2) The money appropriated in subsection (1) of this section
27 remains available for the designated purposes until it is fully expended.

1 **SECTION 10. Grant-making for projects that assist in**
2 **implementing the state water plan - transfer.** On July 1, 2023, the state
3 treasurer shall transfer \$2,000,000 from the unreserved cash in the
4 Colorado water conservation board construction fund created in section
5 37-60-121, C.R.S., to the water plan implementation cash fund created in
6 section 37-60-123.3 (1)(a), C.R.S., to provide additional grant funding for
7 projects that assist with the implementation of the state water plan.

8 **SECTION 11. Continuation of the reservoir enlargement**
9 **assessment project - appropriation.** (1) For the 2023-24 state fiscal
10 year, \$1,000,000 is appropriated to the department of natural resources
11 for use by the division of water resources. This appropriation is from the
12 Colorado water conservation board construction fund created in section
13 37-60-121, C.R.S. To implement this section, the division of water
14 resources may use this appropriation to conduct comprehensive dam
15 safety evaluations on existing dams that are under potential consideration
16 for enlargement.

17 (2) The money appropriated in subsection (1) of this section
18 remains available for the designated purposes until it is fully expended.

19 **SECTION 12. Continuation of the Platte river recovery**
20 **implementation program - transfer - appropriation.** (1) On July 1,
21 2023, the state treasurer shall transfer \$19,000,000 from the severance tax
22 perpetual base fund created in section 39-29-109 (2)(a)(I.5), C.R.S., to the
23 Colorado water conservation board construction fund created in section
24 37-60-121, C.R.S., to support the Platte river recovery implementation
25 program.

26 (2) (a) For the 2023-24 state fiscal year, \$19,000,000 is
27 appropriated to the department of natural resources for use by the

1 Colorado water conservation board. This appropriation is from the
2 Colorado water conservation board construction fund created in section
3 37-60-121, C.R.S. To implement this section, the Colorado water
4 conservation board may use this appropriation to support the Platte river
5 recovery implementation program, which implements certain aspects of
6 the United States fish and wildlife service's recovery plans for the
7 whooping crane, pallid sturgeon, and piping plover and provides
8 compliance with the "Endangered Species Act of 1973", 16 U.S.C. sec.
9 1531, et seq., as amended, for Colorado water projects.

10 (b) The money appropriated in subsection (2)(a) of this section
11 remains available for the designated purposes until it is fully expended.

12 **SECTION 13. Upper Colorado river endangered fish recovery**
13 **program and San Juan river basin recovery implementation program**
14 **- transfer - appropriation.** (1) On July 1, 2023, the state treasurer shall
15 transfer \$15,000,000 from the severance tax perpetual base fund created
16 in section 39-29-109 (2)(a)(I.5), C.R.S., to the Colorado water
17 conservation board construction fund created in section 37-60-121,
18 C.R.S., to support the upper Colorado river endangered fish recovery
19 program and the San Juan river basin recovery implementation program.

20 (2) (a) For the 2023-24 state fiscal year, \$15,000,000 is
21 appropriated to the department of natural resources for use by the
22 Colorado water conservation board. This appropriation is from the
23 Colorado water conservation board construction fund created in section
24 37-60-121, C.R.S. To implement this section, the Colorado water
25 conservation board may use this appropriation to support the upper
26 Colorado river endangered fish recovery program and the San Juan river
27 basin recovery implementation program, which ensures compliance with

1 the "Endangered Species Act of 1973", 16 U.S.C. sec. 1531, et seq., as
2 amended, for Colorado water users, and contributes to the protection of
3 at least four endangered or threatened fish species.

4 (b) The money appropriated in subsection (2)(a) of this section
5 remains available for the designated purposes until it is fully expended.

6 **SECTION 14.** In Session Laws of Colorado 2020, section 17 of
7 chapter 150, (HB 20-1403), **amend** (2) as follows:

8 Section 17. **Frying Pan - Arkansas project loan authorization**
9 **- transfer - appropriation.** (2) (a) On July 1, 2020, the state treasurer
10 shall transfer ~~the sum of~~ \$10,000,000, AND ON JULY 1, 2023, THE STATE
11 TREASURER SHALL TRANSFER \$20,000,000, from the severance tax
12 perpetual base fund created in section 39-29-109 ~~(2)(a)~~ **(2)(a)(I.5)**,
13 C.R.S., to the Colorado water conservation board construction fund
14 created in section 37-60-121, C.R.S., to grant money to EITHER the
15 southeastern Colorado water conservancy district OR OTERO COUNTY to
16 provide nonfederal cost-share funding for the Frying Pan-Arkansas
17 project, which project helps provide quality drinking water to six counties
18 in the lower Arkansas valley.

19 (b) (I) ~~For the 2020-21 state fiscal year \$10,000,000 is~~ THE
20 FOLLOWING AMOUNTS ARE appropriated to the department of natural
21 resources for use by the Colorado water conservation board ~~This~~
22 ~~appropriation is~~ IN THE SPECIFIED STATE FISCAL YEARS:

23 (A) FOR THE 2020-21 STATE FISCAL YEAR, \$10,000,000; AND

24 (B) FOR THE 2023-24 STATE FISCAL YEAR, \$20,000,000.

25 (II) THE APPROPRIATIONS SPECIFIED IN SUBSECTION (2)(b)(I) OF
26 THIS SECTION ARE from the Colorado water conservation board
27 construction fund created in section 37-60-121, C.R.S. To implement this

1 subsection (2), the Colorado water conservation board may use ~~this~~
2 ~~appropriation~~ THESE APPROPRIATIONS to grant money to EITHER the
3 southeastern Colorado water conservancy district OR OTERO COUNTY to
4 provide nonfederal cost-share funding for the Frying Pan-Arkansas
5 project, which project helps provide quality drinking water to six counties
6 in the lower Arkansas valley.

7 ~~(H)~~ (III) The money appropriated in subsection (2)(b)(I) of this
8 section remains available for the designated purposes until it is fully
9 expended.

10 **SECTION 15. Central Colorado water conservancy district**
11 **augmentation efficiency project - appropriation.** (1) For the 2023-24
12 state fiscal year, \$3,000,000 is appropriated to the department of natural
13 resources for use by the Colorado water conservation board. This
14 appropriation is from the Colorado water conservation board construction
15 fund created in section 37-60-121, C.R.S. To implement this section, the
16 Colorado water conservation board may use this appropriation to support
17 the groundwater management subdistrict of the central Colorado water
18 conservancy district with improving the efficiency and effectiveness of
19 its augmentation plans. The augmentation efficiency project includes
20 construction of pipelines, augmentation wells, and groundwater recharge
21 sites.

22 (2) The money appropriated in subsection (1) of this section
23 remains available for the designated purposes until it is fully expended.

24 **SECTION 16. State water plan advancement project -**
25 **appropriation.** (1) For the 2023-24 state fiscal year, \$2,000,000 is
26 appropriated to the department of natural resources for use by the
27 Colorado water conservation board. This appropriation is from the

1 Colorado water conservation board construction fund created in section
2 37-60-121, C.R.S. To implement this section, the Colorado water
3 conservation board may use this appropriation to implement identified
4 actions under the 2023 state water plan, including developing tools,
5 convening stakeholder groups, and conducting research and data analysis.
6 The appropriation will be used for projects that include an evaluation of
7 municipal water conservation standards, an economic analysis of
8 agricultural opportunities, the development of watershed planning
9 platforms, and the establishment of a framework for drought-ready
10 communities.

11 (2) The money appropriated in subsection (1) of this section
12 remains available for the designated purposes until it is fully expended.

13 **SECTION 17. Grant-making for projects that assist in**
14 **implementing the state water plan - appropriation.** (1) ■ For the
15 2023-24 state fiscal year, \$25,200,000 is appropriated to the department
16 of natural resources for use by the Colorado water conservation board.
17 This appropriation is from the water plan implementation cash fund
18 created in section 37-60-123.3 (1)(a), C.R.S. To implement this
19 subsection (1), the Colorado water conservation board may use this
20 appropriation for grant-making for projects that assist in the
21 implementation of the state water plan pursuant to section 37-60-106.3
22 (6), C.R.S., through the Colorado water conservation board's application
23 and guidelines process.

24 (2) The money appropriated in subsection (1) of this section
25 remains available for the designated purposes until it is fully expended.

26 ■ ■

27 **SECTION 18. Chatfield reservoir reallocation project -**

1 **orphan shares purchase - appropriation.** (1) For the 2023-24 state
2 fiscal year, \$8,000,000 is appropriated to the department of natural
3 resources for use by the division of parks and wildlife. This appropriation
4 is from the wildlife cash fund created in section 33-1-112 (1), C.R.S. To
5 implement this section, the division of parks and wildlife may use this
6 appropriation for the purchase of up to 924 acre-feet of orphan shares
7 owned by the Colorado water conservation board as part of the Chatfield
8 reservoir reallocation project.

9 (2) The money appropriated in subsection (1) of this section
10 remains available for the designated purposes until it is fully expended.

11 **SECTION 19. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety.